

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MUHAMMAD TANVIR, JAMEEL
ALGIBHAH, NAVEED SHINWARI, and
AWAIS SAJJAD,

Plaintiffs,

v.

LORETTA E. LYNCH, Attorney General of the
United States, *et al.*,

Defendants.

13 Civ. 6951 (RA)

**[PROPOSED]
ORDER OF
DISMISSAL**

[PROPOSED] ORDER OF DISMISSAL

WHEREAS, the Plaintiffs in this action filed their First Amended Complaint on April 22, 2014, asserting official-capacity claims against Attorney General of the United States Loretta E. Lynch; Director of the Federal Bureau of Investigation (“FBI”) James B. Comey; Director of the Terrorist Screening Center Christopher M. Piehota; Secretary of the Department of Homeland Security (“DHS”) Jeh C. Johnson; and twenty-five named or pseudonymous agents of the FBI and DHS (collectively, the “Government”), alleging that the Government wrongfully placed Plaintiffs on the No Fly List (“Official Capacity Claims”), and seeking, *inter alia*, a judicial order removing them from the No Fly List, *see* Dkt. No. 15; and

WHEREAS, Plaintiffs also brought claims for money damages pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388

(1971), and the Religious Freedom Restoration Act of 1993 (“RFRA”), 42 U.S.C. § 2000bb-1(c) (“Individual Capacity Claims”), against the twenty-five named or pseudonymous agents of the FBI and DHS in their individual capacities (collectively, the “Individual Capacity Defendants”), *see* Dkt No. 15; and

WHEREAS, on July 28, 2014, the Government and the Individual Capacity Defendants filed motions to dismiss the First Amended Complaint, *see* Dkt. Nos. 34, 38; and

WHEREAS, the Plaintiffs filed a consolidated memorandum of law in opposition on November 13, 2014, Dkt. No. 73, and the Government and the Individual Capacity Defendants filed reply memoranda of law in further support of their respective motions to dismiss on January 22, 2015, Dkt. Nos. 81, 82; and

WHEREAS, the Court scheduled oral argument on both motions to dismiss to take place on June 12, 2015;

WHEREAS, on April 13, 2015, the Government notified the Court and the Plaintiffs of the availability of revised procedures for travelers who are denied boarding on commercial aircraft to seek redress under DHS’s Traveler Redress Inquiry Program (“DHS TRIP”); and

WHEREAS, the Government thereafter offered the Plaintiffs the opportunity to have their earlier DHS TRIP inquiries reconsidered under the revised procedures, and Plaintiffs elected to avail themselves of that opportunity; and

WHEREAS, on June 1, 2015, the Government filed a motion (initially opposed by Plaintiffs) to stay proceedings with respect to the Official Capacity Claims pending

the outcome of the reconsideration of Plaintiffs' DHS TRIP inquiries under the revised procedures, *see* Dkt. No. 89; and

WHEREAS, on June 8, 2015, Deborah O. Moore, Director of DHS TRIP, issued a letter to each Plaintiff, advising as follows: "At this time the U.S. Government knows of no reason you should be unable to fly. This determination, based on the totality of available information, closes your DHS TRIP inquiry," *see* Dkt. No. 92; and

WHEREAS, on June 10, 2015, the Plaintiffs advised the Court that, in reliance on Ms. Moore's letter, Plaintiffs withdrew their opposition to the motion to stay and consented to a stay, *see id.*;

WHEREAS, by Order dated June 10, 2015, the Court granted the motion to stay proceedings with respect to the Official Capacity Claims, *see* Dkt. No. 93; and

WHEREAS, some or all of the Plaintiffs have been able to board commercial aircraft subsequent to Ms. Moore's letter; and

WHEREAS, on September 3, 2015, following oral argument, the Court issued an Opinion and Order dismissing Plaintiffs' Individual Capacity Claims against the Individual Capacity Defendants, and requested that the parties advise the Court how they wish to proceed with respect to the stayed Official Capacity Claims, *see* Dkt. No. 104; and

WHEREAS, on October 5, 2015, Plaintiffs advised the Court by letter that their Official Capacity Claims should be dismissed without prejudice and that final judgment should be entered in this matter, to which the Government consented, *see* Dkt. No. 105;

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiffs' Official Capacity Claims against Defendants Loretta E. Lynch, James B. Comey, Christopher M. Piehota, Jeh C. Johnson, FNU Tanzin, Sanya Garcia, Francisco Artusa, John LNU, Michael Rutkowski, William Gale, John C. Harley III, Steven LNU, Michael LNU, Gregg Grossoehmig, Weysan Dun, James C. Langenberg, and John Does 1-13, are DISMISSED WITHOUT PREJUDICE; and

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter final judgment in favor of Defendants.

SO ORDERED.

Dated: December __, 2015
New York, New York

Ronnie Abrams
United States District Judge